

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN DOUGLAS DONAHOE,

Plaintiff,

v.

BENJAMIN H. SETTLE, CHURCH OF
SCIENTOLOGY, RICHARD
CREATURA, THE U.S. PRESIDENT,
R. FREDRICK, REALITY
KINGS.COM, PLAYBOY.COM,
MICROSOFT CORP., KING 5 NEWS,
DR. PHIL TV SHOW CA, MICROSOFT
USERS, STAKEHOLDERS, AND
SHAREHOLDERS,

Defendants.

No. C13-5752 RBL/KLS

REPORT AND RECOMMENDATION
Noted For: December 6, 2013

This civil rights action has been referred to the undersigned United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. It has been more than sixty days since the Court's mailings to Plaintiff were returned and the Court does not have a current address for the Plaintiff. Therefore, the undersigned recommends that the Court dismiss this action as Plaintiff appears to have abandoned his case.

DISCUSSION

On August 29, 2013, Plaintiff filed a proposed civil rights complaint. ECF No. 1. By letter dated August 29, 2013, the Clerk advised Plaintiff that his filing was deficient because he had failed to either pay the filing fee of \$400.00 or to file an application proceed in forma

1 pauperis (IFP). ECF No. 2. Plaintiff was given a deadline of September 30, 2013 to correct the
2 deficiencies. *Id.* The Clerk's letter was addressed to Plaintiff at the Washington Corrections
3 Center (WCC) in Shelton, Washington. *Id.*

4 On September 9, 2013, the Clerk's letter, which had been forwarded to Plaintiff at the
5 Mason County Jail, was returned to the Court as undeliverable, marked "Not in Custody." ECF
6 No. 3. On September 16, 2013, the Court's mailing to WCC was returned to as undeliverable,
7 marked "Not Held at WCC." ECF No. 4. Plaintiff has not provided his current address to the
8 Court.
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10 Rule 41(b)(2) of the Local Rules provides:

11 A party proceeding pro se shall keep the court and opposing parties advised as to
12 his current address. If mail directed to a pro se [Plaintiff] by the clerk is returned
13 by the Post Office, and if such [Plaintiff] fails to notify the court and opposing
14 parties within 60 days thereafter of his current address, the court may dismiss the
15 action without prejudice for failure to prosecute.

16 CR 41, Local Rules W.D. Wash.

17 CONCLUSION

18 This action has existed more than sixty days without a current address for the Plaintiff.
19 Dismissal without prejudice for failure to prosecute is appropriate. Accordingly, the undersigned
20 recommends **DISMISSAL WITHOUT PREJUDICE** for failure to prosecute pursuant to Local
21 Rule 41(b)(2).

22 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
23 Procedure, the parties shall have fourteen (14) days from service of this Report to file written
24 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
25 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the
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1 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on
2 **December 6, 2013**, as noted in the caption.

3 **DATED** this 18th day of November, 2013.

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5 Karen L. Strombom
6 Karen L. Strombom
7 United States Magistrate Judge
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